

LOS ANGELES POLICE COMMISSION

***REVIEW OF AUDIT DIVISION'S
CONFIDENTIAL INFORMANT
CONTROL PACKAGE AUDIT***



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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EXECUTIVE SUMMARY
Office of the Inspector General
Review of Audit Division's Confidential Informant Control Package

OVERVIEW OF THE OFFICE OF INSPECTOR GENERAL'S REVIEW

Pursuant to Consent Decree paragraph 135, the Office of the Inspector General (OIG) reviewed Audit Division's Confidential Informant (CI) Control Packages Audit (Audit). The Audit was completed in the fourth quarter of Fiscal Year 2004/2005, and received by the OIG on July 1, 2005. The purpose of the OIG's review was to assess the Audit's completeness, quality, and findings.

Based on the OIG's review, the OIG believes Audit Division sampled from a complete population but due to significant issues with the Audit's quality, the OIG believes the reported findings are incomplete.

Regarding the overall CI Control Process, it appears the Los Angeles Police Department (Department) has extensive policies and procedures that provide guidance on the utilization of CIs and the Department has done a good job adhering to most of them. However, the OIG identified some significant issues and concerns while reviewing the "active" CI packages audited by Audit Division. Audit Division should have identified and reported some of the issues, and other issues would not have been identified due to timing differences between Audit Division's Audit and the OIG's review. That being said, it appears that many of the issues would be addressed by enhancing supervisory oversight in certain areas and clarifying policy. Given the Department's efforts to expand its use of CIs to uniformed officers, it is imperative that the Department address those areas in the near future.

The Commanding Officer of Detective Bureau was apprised of our findings and indicated that appropriate action would be taken to address the issues and concerns mention in the report.

SIGNIFICANT ISSUES

The OIG identified the following significant issues during its review of CI packages.

- One CI package indicated that a CI was reliable when he was approved for use, but based on information in the package, that assessment was not supported and the Controlling Officer's Chain of Command should have identified the discrepancy.
- One CI package contained information that indicated the CI should have been placed in the "Undesirable Informant" Database . However, the OIG learned that the CI was only reclassified to "inactive" status. The extra step of ensuring the CI would not be used again was not performed. The OIG notified the Area Commanding Officer and steps have been initiated to place the CI's information in the "Undesirable Informant" Database.
- One CI package contained a Letter of Accomplishment that articulated significant accomplishments that were not supported by the information in the CI's package. Even though follow up was conducted, the discrepancy was not resolved.

Executive Summary
Review of Audit Division's Confidential Informant Control Package
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The OIG has offered many recommendations to address the issues and concerns identified in its review and requested the Department to provide a report to the Board of Police Commissioners and the OIG within three months that addresses those recommendations.

**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF AUDIT DIVISION'S CONFIDENTIAL INFORMANT CONTROL
PACKAGE AUDIT**

PURPOSE

Pursuant to Consent Decree paragraph 135, the Office of the Inspector General (OIG) reviewed Audit Division's Confidential Informant (CI) Control Package Audit (Audit). The Audit was completed in the fourth quarter of Fiscal Year 2004/2005, and received by the OIG on July 1, 2005. The purpose of the OIG's review was to assess the Audit's completeness, quality, and findings. The OIG's review noted significant issues with certain CI packages and control concerns within the CI process that were not identified or reported by Audit Division during their Audit. To ensure those issues and concerns are not overshadowed by deficiencies with Audit Division's Audit, the OIG will first provide a summarized assessment of the Audit, and then report on the issues and concerns identified by the OIG. This is a deviation from the OIG's normal reporting process.

The OIG plans on conducting a supplemental review (limited in scope) of the CI payment process during the second quarter of Fiscal Year 2005/2006.

On September 30, 2005, the Commanding Officer of Detective Bureau was apprised of our findings and indicated that appropriate action would be taken to address the issues and concerns raised in the report.

This report has been revised to omit confidential and sensitive information.

BACKGROUND

DEFINITION OF A CONFIDENTIAL INFORMANT

The Informant Manual, June 2003, was issued by the Los Angeles Police Department (Department) to provide guidance to enhance officer and CI safety, minimize civil liability and improve the management of informants.

According to the Department's Informant Manual when an officer desires to utilize an informant, they must first determine if the person should be classified a "source of information" or an "informant." A "source of information" is any person who provides information to a Department officer on criminal activity. However, if that person will be directed by the officer at anytime to secure information on criminal activity, will be compensated for information or a task performed, or wants a Letter of Accomplishment for a pending case, the person should be classified as an "informant." If the person is going to be utilized as an "informant," a CI control package must be prepared and submitted through the Controlling Officer's Chain of Command for approval and the Informant Manual must be adhered to.¹

¹ The completion of a package is not required for persons classified as "sources of information."

Once the Department approves a CI for use, the CI will be classified as "active." The CI will be reclassified as "inactive" when the CI no longer wants to work for the Department or is no longer needed. Additionally, if the Controlling Officer does not have contact with the CI or check the CI's criminal history within a certain period of time, the CI will be reclassified as "inactive." The CI is not approved for use while "inactive."

BACKGROUND ON THE OIG'S AUDIT SECTION

As previously reported, the OIG hired a third Assistant Inspector General (AIG) and a Police Performance Auditor IV (PPA IV) in March and May 2005, respectively. Both the AIG and the PPA IV were assigned to Audit Division prior to accepting their positions with the OIG. Normally, the AIG and the PPA IV would refrain from conducting reviews of Audit Division audits for a certain period of time; however, as the Consent Decree requires the OIG to conduct these reviews, that luxury is not available. Nonetheless, the AIG and PPA IV have refrained from conducting or supervising any reviews of Audit Division audits that they actively participated on while assigned to Audit Division.²

REVIEW METHODOLOGY

For its review, the OIG selected a random sample of "active" and "inactive" CI packages evaluated by Audit Division.

COMMENTS ON AUDIT DIVISION'S AUDIT

The OIG determined that Audit Division's Audit was complete, but identified some significant issues with the Audit's quality. As a result, the OIG believes the reported Audit findings were incomplete. The quality issues are described further below.

AUDIT COMPLETENESS

Audit Division's Audit was to assess the Department's adherence to Consent Decree paragraphs 108, 109, and 128. Paragraph 108 contains several mandates related to approving the use of CIs, security of CI packages, and documenting contacts and actions taken based on information provided by CIs. Paragraph 109 requires the Department to establish a confidential database that contains CI names, aliases, dates of birth, and CI numbers. Paragraph 128 requires Audit Division to perform an overall assessment of the completeness, authenticity (including a review for inconsistencies), underlying actions (including conformance with Department procedures), and supervisory oversight based on documents within CI packages. The OIG found that Audit Division attempted to assess the Department's adherence to all three paragraphs, with the

² Neither the AIG nor the PPA IV participated on the Confidential Informant Control Package Audit while assigned to Audit Division.

exception of Consent Decree subparagraph 108 (b).³ Subparagraph 108 (b) requires an officer to complete a CI package when he/she wants to utilize a person as a CI. As Audit Division identified its population and samples from known CI packages, the subparagraph was not fully assessed. However, as Audit Division performs verification checks of CI packages when it conducts many of its other audits, the risk area is being addressed. Audit Division should consider revising its Annual Audit Plan to reflect the fact that other audits address this subparagraph.

Regarding the completeness of the populations used and sampled, the OIG believes that Audit Division exercised its best efforts to identify "active" and "inactive" CI packages during the specified time periods. As the number of "active" and "inactive" CI packages change from day to day and as the Confidential Informant Tracking System Database (CITSD) is unable to recreate a report at a historical date, the OIG can only conclude that the population appeared complete at the time of Audit Division's Audit (based on limited testing). However, Audit Division needs to improve its audit documentation related to its sampling selections. Audit Division indicated steps have been taken to standardize the audit documentation of its audits.

AUDIT FINDINGS AND QUALITY

Normally, the OIG reports on an audit's findings and quality separately. However, as the OIG believes the overall findings for the Audit were incomplete, (particularly due to the Audit's quality) the two sections were combined.

Regarding Audit Division's Consent Decree paragraph 128 assessment, the OIG identified fairly significant issues with CI packages that, at a minimum, should have impacted the assessment of supervisory oversight. As Audit Division's evaluation document contained mostly narrow and specific questions to assess completeness, authenticity, underlying actions, and supervisory oversight of CI package information, the OIG believes the evaluation document could have caused additional issues and concerns to have gone unnoticed with the remaining population of CI packages audited.⁴ Adding global questions to the evaluation document that address the four main areas (completeness, authenticity, underlying actions, and supervisory oversight) could help to ensure the significant risk management issues are identified in Audit Division's next audit (e.g., "Were there any other supervisory oversight issues noted in the CI package?"). Also, Audit Division used a standard of two substantive anomalies as a criterion to assess whether a CI package met the audit standards specified in Consent Decree paragraph 128. The OIG disagrees with that approach as one significant issue related to completeness, authenticity, underlying actions, and supervisory oversight could be enough to conclude the CI package did not meet the standards set for Consent Decree paragraph 128.

Additionally, the OIG noted that there are two questions on the evaluation document that were used to assess Informant Contact Sheets (Contact Sheets) and Informant Payment Forms.

³ As noted in this report, even though Audit Division attempted to assess the Department's adherence to the identified Consent Decree paragraphs, the assessments for some were deficient.

⁴ Audit Division used an evaluation document with multiple questions to assess each CI package audited.

However, Audit Division did not document the dates of the Contact Sheets and Informant Payment Forms reviewed. Given that as many as eight attributes were evaluated for each sheet or form, the OIG questions whether the evaluation document was specific enough to identify all anomalies present on these sheets and forms. For example, if a particular CI package contained 20 Contact Sheets, the auditors would have evaluated 160 (20 X 8) attributes and answered only one question. Although only a few additional anomalies were identified during the OIG's review, the OIG still questions whether the Audit's findings related to Contact Sheets and Informant Payments Forms were complete. Also, the OIG noted that the Audit Report mentioned one anomaly with contacts in 2003. In the Independent Monitor's report for the quarter ending September 30, 2004, the Independent Monitor recommended that Audit Division clarify the relevant period for each Audit to ensure that issues related to prior periods are not included in the testing/findings of the current period's Audit. This anomaly was within the prior Audit's time period and should not have been reported. The OIG agrees with the Independent Monitor's recommendation and believes Audit Division should establish a set time period to evaluate Contact Sheets and Informant Payment Forms in its next audit.

Regarding Audit Division's Consent Decree paragraph 109 assessment, Audit Division concluded that the Department is in compliance with the mandate because CITSD is in place to track CI information. The OIG agrees with that conclusion, but as mentioned in the Audit, the Database needs to be upgraded.

The OIG also identified many Global Concerns (as mentioned further in this report) with various policies and procedures surrounding the CI process, and the OIG believes at least some of those concerns should have been identified and reported in Audit Division's Audit. While some may consider those concerns as outside the Audit's scope, the OIG disagrees. The OIG believes that Audit Division, the Department's professional auditing entity, should always question the completeness and effectiveness of policies and procedures. Otherwise, significant policy and procedural deficiencies could remain unidentified/unreported.

Regarding the planning for this Audit, the OIG noted that Audit Division deviated from its normal practice of preparing an Instruction Sheet that provides clarification to help an auditor interpret and consistently answer questions in the evaluation document. As only two Audit Division auditors performed the evaluations of all "active" CI packages, issues with interpretation and consistency were somewhat reduced. That being said, as some evaluation document questions were ambiguous, the OIG believes an Instruction Sheet was needed, especially since the OIG and Independent Monitor are required to assess the manner in which Audit Division conducted its review. Additionally, the OIG learned that the Audit's Work Plan was not updated after the reporting format was changed during the editing process. In the future, all Audit Work Plans should be updated.

Audit Division's prior Audit Report for Fiscal Year 2003/2004 contained the following elements: 1) charts to summarize assessments of CI packages; 2) detailed discussions on some of the more significant and/or frequent anomalies; 3) delineation of the testwork performed; and,

4) differentiation between anomalies found in Area versus Narcotics Division CI packages. This year the format was changed. The OIG believes that the Department should return to its prior reporting format. That format provided more useful information that the Department could use to address issues noted by the Audit. Also, for the next Audit, the OIG suggests that Audit Division consider tracing search warrants listed on the Contact Sheets to the Search Warrant Logs. Since those logs contain self-reported information, the CI Control Package Audit provides the perfect opportunity to verify the completeness of sealed search warrant information on the logs and help confirm its reliance on the logs for its Search Warrant and Affidavits Audit.

The OIG agrees with all three of Audit Division's recommendations. In summary, those recommendations called for:

- Upgrading CITSD and Shared Informant Database;
- Developing and implementing a procedure to ensure alterations or modifications to any element of a CI package are documented, explained, and maintained in the CI package; and,
- Identifying and tracking all updates and obsolete information in CI packages.

It should be noted that the new Commanding Officer of Audit Division was previously assigned to Narcotics Division, as such, he refrained from managing or providing input on the Audit.

OVERALL CONCERN WITH THE CI CONTROL PROCESS

Based on the OIG's review, it appears the Department has extensive policies and procedures that provide guidance on the utilization of CIs and the Department has done a good job adhering to most of them. However, during the course of this review, the OIG identified issues in the area of supervisory oversight and identified certain policies that require clarification. Given the Department's efforts to expand its use of CIs to uniformed officers, it is imperative that the Department address those areas in the near future.

DETAILED FINDINGS

This section delineates some of the more significant issues the OIG identified during its review of "active" CI packages audited by Audit Division. All of these issues should have at least been identified during the supervisory oversight process.⁵ Audit Division should have identified and reported some of this review's findings and other findings would not have been identified due to timing differences between Audit Division's Audit and the OIG's review. The OIG will first report on the issues Audit Division should have identified and then comment on the issues that Audit Division would not have been identify. The issues with particular packages that are reported in this section were brought to the attention of the Commanding Officers of the involved Areas and Divisions. The OIG also identified concerns with the overall CI process

⁵ Some CI packages had more than one issue.

(see the Global Concerns section) that did not necessarily pertain to a particular CI package. The OIG believes that Audit Division should have identified many of these concerns as well.

ISSUES THAT AUDIT DIVISION'S AUDIT SHOULD HAVE IDENTIFIED

Reliability Assessment

According to the Informant Manual, when a CI with a criminal past has not provided accurate information or previous information has not led to an arrest of suspect(s) or contraband seizure, the informant's information requires corroboration.

The package for one CI contained an Exceptional Handling Report that indicated the CI (with a criminal past) was reliable; but that determination was not supported by other information in the package. Specifically, the CI (prior to becoming an official CI for the Department) informed an officer that there were contraband being housed in a particular apartment. Two days later, the same officer was assisting other officers on a radio call of "shots fired" and a consent search was performed in an apartment in the same apartment building, but a different apartment. According to the Arrest Report (also in the CI's package), the search resulted in contraband being confiscated and a suspect being arrested. The Exceptional Handling Report, in the CI's package, states "although the informant's information was not utilized during the investigation, this incident proves his reliability."

This discrepancy could have been caused by a typographical error when documenting the apartment number or it is possible the Controlling Officer was trying to indicate that the CI was reliable due to the contraband being found in the same apartment building. Either way, the CI package did not support the CI's reliability assessment, and a supervisor in the Controlling Officer's Chain of Command should have identified the discrepancy.

Additionally, the CI was approved for use by the Controlling Officer's Chain of Command and during the CI's first contact since being approved, the CI provided information on possible criminal activity at two different locations. Search warrants were served as a result. The sealed portion of those warrants indicated the informant was considered reliable, but as stated above, the OIG is uncertain whether the CI should have actually been considered reliable at that time.

Audit Division's next audit should include a verification check of CI reliability when first-time information is used for search warrants. This type of assessment would assess underlying actions and supervisory oversight (Consent Decree paragraph 128).

Controlling Officers Not Present When Their CIs Are Used

According to the Informant Manual, the Controlling Officer shall be present when another officer desires to utilize an informant. Due to the potential for conflicts, an informant shall not be controlled simultaneously by more than one Department officer or entity.

The packages for two CIs indicated there was an apparent lack of control when utilizing the CIs. Although the CI packages indicated there was a Controlling Officer assigned to each CI, it appears the Controlling Officers were not always present/notified when the CIs were used for multiple drug buys by different officers.

Splitting Payment Information

According to the Informant Manual, the Controlling Officer must complete an Informant Payment Form for all payments made to CIs. The form documents the pre-approving Commanding Officer or Supervisor. For payments over a certain dollar amount, a Lieutenant or Section Officer in Charge must give pre-approval, and for payments over a larger dollar amount, the Commanding Officer must give pre-approval.

The packages for two CIs contained Informant Payment Forms with split payment information for the same day. The OIG determined that the payment information was split to separately document "buy attempts" and actual "buys," as the payment rate differs. Yet, as this type of separation can circumvent pre-approval requirements, this practice should be discontinued. It should be noted that the OIG does not believe the split payment information in these CI packages was done to circumvent the requirements.

Inconsistent Payment

According to the Informant Manual, the CI's motivation to work with the Department must be documented in the package.

The package for one CI indicated that the CI had a contract with a prosecuting agency to provide information and assistance to the Department in exchange for a plea bargain. The contract did not call for payments to the CI. However, a Contact Sheet for mid-2004 indicated the CI was paid a monetary amount for information that led to multiple arrests and the seizure of contraband. There is no explanation in the package to justify this payment.

Two Confidential Informant Numbers for the Same Person

According to Narcotics Division and best practices, a CI should only have one CI number. This allows the Department to have better control of a particular CI.

The OIG identified two CI packages with two different CI numbers for the same person. One CI package was approved but the Exceptional Handling Report indicated the CI had another package with a different CI number. The OIG requested Narcotics Division to combine the packages.

Photograph Discrepancy

According to the Informant Manual, the CI package must contain a current photograph or digital image (taken within one year) of the CI. Photographs must indicate the date the photograph was taken.

The package for one CI had a digital photograph that indicated the photograph was taken in a particular month. However, it was clearly an enlarged arrest photograph taken more than ten months prior. Although the OIG recognizes that at the time of approval the photograph was current, the Controlling Officer's Chain of Command should have identified the discrepancy when approving the CI package. As the supervisor who met with the CI did not sign the Exceptional Handling Report, the authenticity of this CI could be called into question. At the time of the OIG's review, the CI was still "active" and the photograph still had not been updated.

Entire Criminal History Review

According to the Informant Manual, a check of the "Undesirable Informant" Database and all applicable rap sheets checks (including the Criminal Identification Database check and Information and Federal Bureau of Investigations Database check) should be in the CI package prior to submitting the package for Chain of Command approval.

The package for one CI indicated that the CI package was approved by the Area Commanding Officer before the "Undesirable Informant" Database, the Criminal Identification and Information Database, and the Federal Bureau of Investigations Database checks were performed. Four days after the Commanding Officer's approval, Narcotics Division performed the checks. At that time, additional aliases for the CI were identified. The Controlling Officer's Chain of Command should ensure that the CI's entire criminal history and the "Undesirable Informant" check is performed "prior to" approving CI packages.

Additionally, at the time of the Chain of Command's approval, a warrant check listed a warrant that had been issued for the CI. There was no documentation in the CI package to indicate that the Controlling Officer's Chain of Command identified the warrant during its approval process. Given that the Department does not allow an "active" CI to have a warrant, the CI's package should not have been approved. At the time of the OIG's review, it was determined that the warrant was no longer outstanding. As mentioned in the Global Concerns section, notations should be placed next to warrants listed on warrant checks to document whether the warrant belongs to the CI and if not, a brief explanation should be documented.

Motivation Documentation

According to the Informant Manual, the CI's motivation to work with the Department must be documented in the CI package.

The package for one CI indicated the CI was working for a Letter of Accomplishment. At the time of the OIG's review, a Letter of Accomplishment was not in the CI package. As noted in the Global Issues section, the Informant Manual currently does not require the signed letters to be added to the CI package. After a request by the OIG, the Area located an unsigned copy of the letter. A review of that letter did not identify any significant discrepancies, but the signature block was for the Area Commanding Officer, not the Commanding Officer of Detective Bureau, as required. The CI remained active after his/her sentencing, but the package contained no update on the CI's new motivation.

ISSUES THAT AUDIT DIVISION'S AUDIT WOULD NOT HAVE BEEN EXPECTED TO IDENTIFY

Undesirable Confidential Informant

According to the Informant Manual, when a CI demonstrates certain types of behavior the Controlling Officer shall prepare an Intradepartmental Correspondence (Form 15.2) documenting the CI's unreliability and place the words "Undesirable Informant" in the left margin. The Form 15.2 and a copy of the Informant Information Form is to be hand carried through the Controlling Officer's Chain of Command to the Commanding Officer of Detective Bureau. At that time, the Commanding Officer of Detective Bureau will make the final determination of whether to place a person in the "Undesirable Informant" Database.

The Department's criteria for classifying an informant as "undesirable" includes, but is not limited to, one or more of the following:

- Acting in any way which would endanger the life of an officer;
- Revealing the identity of any officer or the existence of an investigation to suspects during an investigation;
- Attempting to use the Department to further his or her own criminal objectives; or,
- Alienating one police agency against another by giving false or misleading information to either or both agencies.

The package for one CI indicated that the CI was under a federal indictment for committing serious crimes while the CI was an "active" CI for the Department. The package further indicated that the Controlling Officer did not supervise/authorize any operations that would have explained the allegation of those crimes by the CI. The Controlling Officer reclassified the CI package from "active" to "inactive" when he learned of this indictment. In addition prior to the indictment, the CI was arrested twice in the last year and made inquiries as to whether another person was working as a CI with the Department. Given these circumstances, the OIG believes the CI's information should have been placed in the "Undesirable Informant" Database.⁶ This matter was brought to the new Area Commanding Officer's attention and the Commanding

⁶ On September 14, 2005, Narcotics Division confirmed the CI's information was not on the "Undesirable Informant" Database.

Officer has subsequently been in contact with the Commanding Officer of Detective Bureau and has submitted the necessary paperwork to place the CI's information in the "Undesirable Informant" Database.

Lack of Documentation to Support Letter of Accomplishment

The motivation for some Department CIs is to obtain a Letter of Accomplishment to be considered in a pending criminal case against the CI. Prior to the CI's sentencing, the Department prepares the Letter of Accomplishment. A judge or prosecutor may take the accomplishment information into consideration at sentencing.

The package for one CI indicated the CI was providing criminal activity information to the Department in exchange for a Letter of Accomplishment and the letter was signed by the Commanding Officer of Detective Bureau. The Letter of Accomplishment indicated the CI assisted in multiple investigations, resulting in significant amounts of contraband seizures. However, this information was not supported by documents in the CI package. The CI package indicated there were only four contacts with the CI in the proceeding seven months and only one of those contacts resulted in a seizure. But that seizure did not explained the more accomplishments mentioned in the letter.

The OIG requested the supporting documents for the information mentioned in the Letter of Accomplishment. Narcotics Division provided the OIG with three arrest reports, obtained from the Controlling Officer, as support for the Letter of Accomplishment. However, the OIG has the following concerns with those reports:

- One arrest report indicated a CI provided information that led to an arrest. It is unknown whether the CI in question provided the information as there is no way to reconcile the arrest report information to the CI.
- The second arrest report appeared to be supported by the Contact Sheet in the package and the OIG does not question that the above mentioned CI provided the information that led to the arrest. However, the OIG noted the sealed portion of the related search warrant and affidavit did not contain any identifying information of the CI. This raises the issue of the lack of any identifying CI information (not even a CI Number) being placed in the sealed portion of search warrants and affidavits. The Department should consider providing guidance on this issue. This would enable Department management and auditors to verify that all CIs referenced in the sealed portion of search warrants and affidavits are Department approved.
- The third arrest report for a multi-two arrest indicated that the information the Controlling Officer received was from a "Source of Information," not a CI. As mentioned in the beginning of this report, there is a difference between this classification, so it is unknown if the CI in question provided the information.

Motivation Documentation

According to the Informant Manual, the CI's motivation to work with the Department must be documented in the package.

The package for one CI indicated the CI was working for a Letter of Accomplishment, and a Contact Sheet indicated the Controlling Officer was preparing the letter on the same day of the CI's sentencing. However, a copy of the Letter of Accomplishment was not in the CI's package. It is unknown whether the Commanding Officer of Detective Bureau signed this letter as required. The Informant Manual requires the Letter of Accomplishment to be initiated no later than 14 days prior to any court proceeding since there are several levels of review. Additionally, the CI provided information after the sentencing, but there was no update on the change of motivation in the CI package.

Use of an "Inactive" Confidential Informant

According to the Informant Manual, "active" informants are reclassified as "inactive" if the rap sheet checks, the warrant checks, and the "Undesirable Informant" Database check are not performed within a certain period of time. When a CI is placed on "inactive" status, the CI is not approved for use.

The package for one CI indicated that the CI was used for drug buys when the CI was classified as "inactive." Specifically, Narcotics Division reclassified the CI to "inactive" because the Controlling Officer did not perform the mandatory checks. Yet, according to the CI package, the CI was used several days to perform drug buys after being declared "inactive." Some of the drug buys resulted in search warrants being served and multiple arrests. By the next month, the CI package was returned to "active" status.

GLOBAL CONCERNS

The OIG also identified several concerns that did not relate to one particular CI package. To address some of these concerns, the Department needs to update its policies and procedures. For others, steps need to be taken to ensure supervisors follow the policies and procedures currently in place.

Documentation of Controlling Officer Changes

Although the Informant Manual requires Controlling Officer changes to be documented, there were a few instances where the Controlling Officers changed from the one listed on the Exceptional Handling Report with no documentation explaining the change.

Letters of Accomplishment

The Informant Manual does not state that the arrest report for a pending case or the signed Letter of Accomplishment needs to be placed in the CI package. As Detective Bureau does not maintain copies of the letters (due to confidentiality reasons), the most logical place to maintain a signed copy of the letters is in the CI packages. This requirement would also enable Department management and auditors to verify that the accomplishments articulated in the letters are supported by information in the CI package and other supporting documents.

"Shared" Informant Clarification

During the OIG's review, it was determined that the definition of a "shared" informant needs to be clarified. The Informant Manual describes a "shared" informant as a CI who's Controlling Officer is assigned to a task force configuration with other agencies. However, there are no examples provided. The OIG's discussions with Department personnel confirmed the need for clarification as the OIG received differing explanations as to their understanding of this definition.

Exceptional Handling Report

The Controlling Officer is required to document the supervisor who met with the CI on a form called the Exceptional Handling Report. However, the Informant Manual does not require the same supervisor to sign the report. As a better practice, this requirement should be added to the Informant Manual.

Searches of Female CIs

According to the Informant Manual, a CI who has purchased or handled narcotics must be searched. This type of post-operational search is left to the discretion of the supervisor.

During the OIG's review, one package was identified that indicated the female CI was used to perform drug buys on multiple days during a seven-month period. For some of the drug buys, it appears that only male officers were present during the drug buys and based on the Contact Sheets, a male officer performed a "pat-down" search of the CI on a few of those days. The Contact Sheets for the remaining days indicated the male officers only performed a "visual" search, that involved the CI taking items out of her pockets, after both drug "buy attempts" and "buys." As drug buys often involve pre-planned activities, when female CIs are used for drug buys, a female officer should be present, to perform, at a minimum, a "pat-down" search.

Contact Sheets

The Consent Decree requires that a Controlling Officer confer with a supervisor "prior to" meeting with a CI. On the older Contact Sheets, Controlling Officers did not always document whether the supervisor was conferred with "prior to" meeting with a CI. The newer Contact

Sheets now have a pre-typed section that allows the Controlling Officer to document the supervisor was notified "prior to" the meeting. It appears that a majority of the CI packages are now using the newer form, but the OIG questions whether this information is completely reliable. For example, the OIG noted some Contact Sheets for telephonic contacts indicated the Controlling Officer notified his/her supervisor "prior to" the contact with the CI, even though the CI called the Controlling Officer. It is unknown whether there would be enough time to notify a supervisor prior to accepting a call from the CI. This raises a concern of whether a "fill in the blank" approach is being used with these newer Contact Sheets. To properly assess whether the Department is in compliance with the Consent Decree subparagraph 108 (h), the OIG believes the Contact Sheet should be revised to include an option for Controlling Officer's to document whether a supervisor was notified "prior to" or "after" a contact with a CI.

Probation and Parole Consideration

The Informant Manual specifies the steps a Controlling Officer needs to take to utilize CIs who are on Probation and Parole, but there are no instructions regarding the information required to be documented on the Exceptional Handling Report. The Commanding Officers should be able to verify that the Controlling Officers performed the delineated steps in the Informant Manual and ensure the CI's circumstances are fully considered at the time of approval. Better documentation would help to avoid confusion and ensure the Department is not directing a CI to perform activities or gather information that would conflict with agreements reached with the courts and/or probation/parole officers.

Parolee Checks

According to the Informant Manual, the Controlling Officer is required to perform a parolee check before a CI is approved for use. During our review the OIG noted that Controlling Officers used a wide range of criteria to perform parolee checks, ranging from, the name and zip code of a CI to name, age, weight, height, and ethnicity. Absent consistent criteria the Department runs the risk of not identifying CIs who may be on parole.

Warrant Checks

According to Narcotics Division, anytime a CI has an outstanding warrant, the CI cannot be an "active" CI for the Department. Many packages contained warrant checks that had warrants listed on the printouts, but there was no documentation on the printouts to indicate whether the warrant was actually for the Department's CI. The OIG's review identified two CI's that had outstanding warrants that appeared to have gone unnoticed by the Department for at least a few months. To reduce those occurrences, notations should be placed next to each warrant listed on the warrant check printouts to indicate whether it is for the Department's CI or contain a brief notation to indicate how the Department determined the warrant is not for the Department CI. The person performing the review should initial, date, and include his/her serial number next to each notation.

Package Updates

It appears that a few CI packages had Contact Sheets that took a substantial amount of time to be placed in the package. For example, one CI package, reviewed by Audit Division in March 2005, indicated the last contact was in late 2004. However, there were actually two contacts in the beginning of the year that should have been in the CI package at the time of Audit Division's Audit. There was no apparent justification for the delay in the package update. As a better practice, supervisors should date the Contact Sheets when approving, and Department personnel in charge of updating CI packages should date stamp documents before placing them in the package. Until that happens, the OIG cannot determine the reason for these time lags. The Independent Monitor noted a similar concern in their last assessment of CI packages for the quarter ending September 2004.

Additionally, the OIG noted that package updates pending inclusion into the applicable CI package were not kept in a locked cabinet at Narcotics Division. For security purposes, those updates should be placed in a locked cabinet until the updates can be made.

Expenditure Forms

The OIG noted that copies of expenditure forms that document the signatures of the officer making a payment to a CI, the witnessing officer, the supervisor approving, and the CI accepting the payment are not included in the CI packages. In the past, these forms were included, but as the Informant Manual did not require its inclusion, Areas and Narcotics Division ceased placing the forms in the packages. The only form in the CI packages that documents payments is the Informant Payment Form. However, that form only requires the printed name of the officer making the payment, the officer in charge reviewing the form, the supervisor approving the form, and the pre-approving Commanding Officer or Supervisor. As a better practice, a copy of expenditure form (Expenditure of Secret Service Funds Form or Narcotics Expenditure – Secret Service Funds Form) should be included in the CI packages.

Lack of Payments to CIs Working for Monetary Compensation

According to the Informant Manual, when a CI is paid, the information should be documented on an Informant Payment Form and Informant Contact Sheet. The OIG noted one package where there was no indication that the CI had been paid for activity which had occurred some seven months earlier. The OIG recognizes that certain circumstances may cause the delay of payment (e.g. asset forfeiture proceedings following a criminal conviction). However there was no explanation in the CI package in question for the cause of the delay and/or whether there was an issue regarding payment to the CI. In circumstances where a decision is made to deny payment for any reason (e.g. a breach in the agreement), the OIG believes the Controlling officer should so document that decision in the CI package. The OIG noted that the Informant Manual does not address this area. As such, the OIG believes that informant Manual should be updated to require documentation for any lack of payment when a CI's primary motivation is monetary compensation and the CI has provided information that has led to arrests or seizures.

Access to the Sealed Portion of Search Warrants and Affidavits

The issue of access to the sealed portion of search warrants and affidavits continues to be a source of confusion and debate. The OIG believes that sealing orders are a protection from the public, not from internal review of checks and balances within the Department. The OIG already conducts reviews of CI packages that contain more identifying information on CIs than the sealed portion of search warrants and affidavits. As a result of comments made in the OIG's review of the Department's Warrants and Supporting Affidavits Audit dated May 27, 2005, the Department and the OIG met to discuss this issue. At that time, it was agreed that access should be granted to not only the OIG but also Audit Division personnel, and that protocols would be written to facilitate such access. Unfortunately, this message has not been disseminated throughout the Department, and as a result, the Commanding Officer of Consent Decree Bureau and a geographic Area had to be contacted in order to facilitate a review of the sealed portion of two search warrants and affidavits during this review. In the near future, protocols need to be written and disseminated throughout the Department to resolve this issue.

RECOMMENDATIONS

It is recommended that the Department provide a report to the Board of Police Commissioners and the OIG within three months that addresses the recommendations in this report.

1) Provide clarification on the following:

- a) The definition of a "Shared Informant" and provide examples to applicable personnel;
- b) The entities that are able to have access to sealed portions of search warrants and affidavits; and,
- c) The criteria that should be used when performing parolee checks.

2) Upgrade CITSD and the Shared Informant Database.

3) Re-emphasize to all applicable supervisors/managers the following:

- a) All references pertaining to the reliability of a CI should be properly supported;
- b) All Controlling Officer changes should be documented on a Contact Sheet and placed in the CI's package;
- c) The Controlling Officer should be present when other officers are utilizing his/her CI;
- d) Payments to a CI on the same day are to be documented on one Informant Payment Form (not "split");
- e) Payments are only to be made to CIs working for monetary compensation, and any exceptions must be fully documented;
- f) The CI's entire Criminal History needs to be reviewed prior to approval;
- g) The CI's primary motivation needs to be documented in the CI's package, including all motivation changes;

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- h) All package updates must be kept in a secured cabinet while awaiting inclusion into a CI package; and,
 - i) The Letters of Accomplishment must be signed by the Commanding Officer of Detective Bureau, and a signed copy of the Letter must be placed in the CI package.
- 4) Revise the Informant Manual to address the following matters:
 - a) An "active" CI must not have any outstanding warrants;
 - b) Changes in the CI's motivation must be documented and included in the CI's package;
 - c) When a CI is working for a Letter of Accomplishment, the arrest report for the pending case, and subsequently signed letter must be placed in the CI's package;
 - d) When a CI is working for monetary compensation and provides information that has led to arrests and seizures, the CI should be paid or the Contact Sheet should indicate the reason the CI was not paid;
 - e) Instructions should be written regarding the information that needs to be documented in the Exceptional Handling Report for CIs that are on probation and/or parole. The instructions should detail the type of information that should be documented regarding contacts with the courts, probation/parole officer, and any probation conditions;
 - f) A copy of the applicable expenditure forms (Expenditure of Secret Service Funds Form or Narcotics Expenditure – Secret Service Funds Form) should be included in the CI packages;
 - g) A female officer must be present when using female CIs for drug buys and "pat-down" searches must be performed on all CIs who have purchased or handled narcotics; and,
 - h) The same supervisor who met with the CI must also sign the Exceptional Handling Report.
- 5) Revise the Contact Sheet Form to allow a Controlling Officer to document whether his/her supervisor was notified "prior to" or "after" a meeting with a CI. The revised form should include a space for all supervisors to indicate the date of their approval signature.
- 6) Review the CI package for the one aforementioned CI package and attempt to resolve the discrepancy between the Letter of Accomplishment and the supporting information in the package or take appropriate action.
- 7) Research whether the Department should provide official guidance on the amount of CI information that should be placed in the sealed portion of a search warrant and affidavit (e.g., the CI Number).